

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action dated April 16, 2007. Claims 1-20 are pending in the application. Claims 10-20 have been amended. New matter has not been added with the amendments to the claims and specification. Applicant respectfully requests reconsideration of the application in accordance with the following remarks.

Claim Objections

In the Action, claims 19-20 were objected to for including, in line 1 of both claims, "storage medium". In the Office Action, the Examiner suggested that claims be amended to include "computer readable storage medium". Claims 19 and 20 have been amended to address the concerns in the Office Action.

Section 101 Rejections

Claims 10-18 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Amended claim 10 recites:

A system for preventing identity theft in electronic communications, comprising:

instructions stored on a computer-readable medium for sequencing an encryption key transaction from a trusted service for generating for an individual a consumer identifier, said sequencing instructions, further comprising:

instructions for issuing from said trusted service a primary key to the individual;

instructions for issuing to the individual a unique identifier from said trusted service; and

instructions for permitting the individual to generate and maintain a consumer-defined sequence through said trusted service; and

instructions stored on a computer-readable medium for allowing the individual to control access to commercially related use of said consumer identifier by third parties.

As stated in the *Manual of Patent Examining Procedure* when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases. § 2106.01, ¶ 2 (8th ed. Aug. 2001, latest rev. Aug. 2006). “In this context, functional descriptive material consists of data structures and computer programs which impart functionality when employed as a computer component.” § 2106.01, ¶ 1. Since, as stated in the Office Action (page 2), claim 10 includes functional descriptive material and this functional descriptive material is stored on a computer-readable medium, claim 10 is directed to statutory subject matter.

Accordingly, since claim 10 satisfies the requirements for statutory subject matter, Applicant requests removal of the rejection.

### Section 103 Rejections

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,853,739 to Kyle (“Kyle”) in view of U.S. Patent No. 6,539,101 to Black (“Black”). Applicant respectfully disagrees that the claims are unpatentable over the cited art.

The Kyle reference teaches an identity verification system with a biometrics component (Kyle, column 2, lines 36-37). The described system connects a biometric data entry device such as a standard analogue or digital camera, to a communication control device which captures, compresses, and digitizes the biometric data, and then converts the data (Kyle, column 2, lines 39-44). The described system then sends this data along with data from a data input device to a central processing unit for processing by a biometric recognition system and for comparison to stored biometric data (Kyle, column 2, lines 45-47).

Claim 1 recites “allowing the individual to control access to commercially related use of said consumer identifier by third parties.” The Office Action states that the Kyle reference teaches allowing an individual to control access to a commercially related use of a consumer identifier by third parties. However, the cited portions of the Kyle reference teach that image templates and unique identifiers are stored in a central database and may be shared between databases at remote locations using any common data communications medium. The Kyle

reference also teaches that this allows individuals to perform a verification (e.g., when the server receives data from a data input device, that data and the unique identifying number are sent to the central database where a search is conducted to determine whether or not a record of that identifier exists on the database) at a different location from the location where the individual enrolled originally (Kyle, column 13, line 67-column 14, line 2; column 14, lines 4-19).

Accordingly, it has not been shown that the Kyle reference discloses allowing an individual to control access to commercially related use of a consumer identifier by third parties. Instead, the Kyle reference teaches sharing the image templates and unique identifiers between databases. In addition, the Black reference fails to rectify the deficiencies of the Kyle reference. Accordingly, claim 1 and its dependent claims are allowable over the cited art.

Independent claims 10 and 19 recite limitations similar to that of claim 1. In particular, the claims recite instructions for allowing the individual to control access to commercially related use of said consumer identifier by third parties. Accordingly, for at least the reasons stated above in connection with claim 1, claims 10 and 19 and their corresponding dependent claims are also allowable over the cited art.

### CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fees are believed to be due at this time. If any extension of time is required, Applicant hereby requests the appropriate extension of time. Please apply any other charges or credits to Deposit Account No. 05-0765.

Respectfully submitted,

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